

## UNITED STATES DISTRICT COURT

for the

Eastern District of Pennsylvania

United States of America

v.

EDVIU AGUSTO LEONARDO-PENA

Case No.

18-1627-M

*Defendant(s)*

## CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of October 15, 2018 in the county of Philadelphia in the  
Eastern District of Pennsylvania, the defendant(s) violated:

*Code Section*

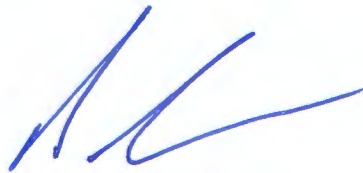
8 U.S.C. § 1326(a)

*Offense Description*

Reentry of removed alien

This criminal complaint is based on these facts:

See attached Affidavit of Deportation Officer Bryan Pachini, which is incorporated herein by reference.

☒ Continued on the attached sheet.

*Complainant's signature*


Bryan Pachini, Deportation Officer, ICE

*Printed name and title*

Sworn to before me and signed in my presence.

Date:

October 15, 2018


*Judge's signature*City and state: Philadelphia, Pennsylvania

Honorable Carol S. Wells

*Printed name and title*

AFFIDAVIT

1. I, Bryan A. Pachini, am a Deportation Officer at U.S. Immigration and Customs Enforcement ("ICE") within the U.S. Department of Homeland Security ("DHS"). I have served as a Deportation Officer with ICE since April 4, 2016. As a Deportation Officer, I conduct investigations related to violations of the Immigration and Nationality Act, specifically foreign-born nationals who have been deported from the United States and subsequently re-entered the United States illegally. I am currently assigned to the ICE Enforcement and Removal Operations Philadelphia, Pennsylvania Field Office and my duties include investigating violations of Title 8 of the United States Code ("U.S.C") to include violations of immigration offenses.

2. I have prepared this affidavit in support of a criminal complaint against EDVIU AGUSTO LEONARDO-PENA, ("LEONARDO-PENA"), because there is probable cause to believe LEONARDO-PENA, an alien, re-entered the United States after removal, in violation of Title 8, U.S.C. § 1326(a).

3. On October 15, 2018, I received information that LEONARDO-PENA had been arrested by the Philadelphia Police Department and charged with aggravated assault, strangulation, simple assault, and possessing an instrument of crime. Based on my training and experience, I know that any time a police department or other law enforcement agency runs the fingerprints of any alien, that is an individual who is not a United States citizen or national, who has previously been encountered by ICE or another immigration agency, ICE receives electronic notification of this fact and any match to the alien's known fingerprint identification number. On October 15, 2018, I reviewed the electronic notification showing that the Philadelphia Police Department had recently run LEONARDO-PENA's fingerprints, which suggested that

LEONARDO-PENA, with FBI# 147286XB8, had been encountered by the Philadelphia Police Department.

4. On October 15, 2018, I conducted a check in the National Crime Information Center ("NCIC") database for LEONARDO-PENA's criminal history, as well as his immigration history. Under the FBI number provided (147286XB8), I discovered that LEONARDO-PENA had a previous encounter with ICE. Further checks in the Enforcement Alien Removal Module ("EARM") database were conducted for LEONARDO-PENA's immigration history in the United States. I found that LEONARDO-PENA had been arrested by ICE Special Agents on March 11, 2005 for illegally entering the United States. On August 1, 2005, LEONARDO-PENA was ordered removed from the United States by an Immigration Judge pursuant to Section 212(a)(6)(A)(i) of the Immigration and Nationality Act, as amended. Pursuant to the August 1, 2005 order, LEONARDO-PENA, after initially absconding, was removed from the United States on April 22, 2015. On July 11, 2016, LEONARDO-PENA again unlawfully entered the United States and was arrested by U.S. Border Patrol agents. LEONARDO-PENA's removal order was reinstated and he was removed for the second time from the United States on August 10, 2016.

5. Based on my training and experience, I know that ICE maintains a file on all aliens encountered by ICE. This file, known as the Alien File ("A File"), contains documentation relating to the alien, including his/her photograph, warrants of deportation, fingerprints, documents reflecting criminal history, documents reflecting the country of citizenship, and other documents. Each alien is assigned an identification number, referred to as the "Alien Number." A Search of ICE databases revealed that EDVIU AGUSTO LEONARDO-PENA has been assigned Alien Number 097-699-059.

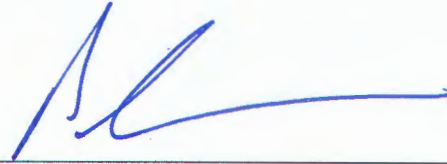


6. On October 15, 2018, based on my review of DHS's electronic databases I have made the following conclusions:

- a. LEONARDO-PENA is a citizen and national of Guatemala.
- b. LEONARDO-PENA's date of birth is February 14, 1977 and this affidavit and the Complaint to which it is attached correctly reflect LEONARDO-PENA's name.
- c. On March 11, 2005, LEONARDO-PENA was served a Notice to Appear by ICE Special Agents pursuant to Section 212(a)(6)(A)(i) of the Immigration and Nationality Act, as amended.
- d. On August 01, 2005, LEONARDO-PENA was ordered removed by an Immigration Judge pursuant to Section 212(a)(6)(A)(i) of the Immigration and Nationality Act, as amended.
- e. The United States, pursuant to a "Warrant of Deportation/Removal," removed LEONARDO-PENA on or about April 22, 2015, through New Orleans, LA, to Guatemala.
- f. On July 11, 2016, LEONARDO-PENA re-entered the United States without having obtained the advanced permission of the Attorney General of the United States, or his successor, the Secretary of Homeland Security, to reapply for admission. LEONARDO-PENA was detained on July 11, 2016, by U.S. Border Patrol agents shortly after entering the United States.
- g. The United States, pursuant to a "Warrant of Deportation/Removal," removed LEONARDO-PENA for the second time on or about August 13, 2016, through EL Paso, Texas, to Guatemala.

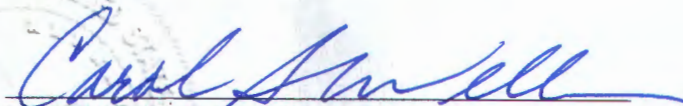
h. A search of ICE databases revealed that LEONARDO-PENA did not seek permission of the United States Attorney General, or his successor, the Secretary of the Department of Homeland Security, to re-enter as required by 8 U.S.C. § 1360(d).

7. Based on all of the foregoing, I respectfully submit that the facts set forth in this Affidavit demonstrate that there is probable cause to conclude that EDVIU AGUSTO LEONARDO-PENA illegally re-entered the United States after removal in violation of 8 U.S.C. § 1326(a). I therefore respectfully ask that the Court issue a warrant ordering his arrest for such crime.



BRYAN A. PACHINI  
Deportation Officer  
Immigration and Customs Enforcement

Sworn To And Subscribed Before Me  
This 15th day Of October 2018.



HONORABLE CAROL S. WELLS  
United States Magistrate Judge